

# EUROPEAN PARLIAMENT

2004



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*Committee on Industry, Research and Energy*

**2004/0248(COD)**

26.4.2005

## **OPINION**

of the Committee on Industry, Research and Energy

for the Committee on the Internal Market and Consumer Protection

on the proposal for a directive of the European Parliament and of the Council laying down rules on nominal quantities for pre-packed products, repealing Council Directives 75/106/EEC and 80/232/EEC, and amending Council Directive 76/211/EEC  
(COM(2004)0708 – C6-0160/2004 – 2004/0248(COD))

Draftsman: John Purvis

PA\_Leg

## **SHORT JUSTIFICATION**

The current legislation on pack sizes for pre-packed products is complex and lacks transparency. The legislation covers some 40 products. For some of them (like wine and spirits) mandatory sizes are fixed at Community level. For others, optional Community rules on sizes are in place, but Member States retain the right to fix ranges at national level. This has led to a variety of Community and national rules on sizes and a general confusion in the internal market, especially after the Cidrerie-Ruwet case permitted the marketing throughout the EU of nationally sanctioned sizes.

In this proposal, all existing mandatory or optional fixed pack sizes are abolished, with the exception of a few specific sectors (i.e. wine, spirits, soluble coffee and white sugar) where mandatory sizes within certain ranges are maintained. The Commission proposes even this should lapse after 20 years. Your draftsman suggests instead reviews at approximately ten year intervals.

In general, this opinion welcomes the Commission's proposal. It is a good example of deregulation and simplification of EU and national legislation.

Free sizes increase the flexibility for companies to adapt their product sizes to new consumer needs and changing demands. They will boost innovation and increase consumer choice. Experience has shown that in sectors where sizes are free, companies tend to focus more on consumer demand and concentrate on product innovation. This product innovation often opens up and develops new markets and goes hand in hand with process innovation.

Legislation on labelling, unit pricing and misleading advertising is more important to consumer protection than limiting consumer choice by fixing sizes.

However, in some specific sectors there is a case to retain mandatory fixed sizes. Firstly, mandatory sizes can help some smaller-scale producers reduce costs through economies of scale and more efficient bottling line operations. Without mandatory sizes they might face demands from large retailers and distributors to regularly change pack sizes. Secondly, in some sectors prior to the introduction of mandatory sizes, consumers were faced with a proliferation of pack sizes. These differences in size were often indistinguishable to the eye resulting in widespread consumer confusion. Therefore the Commission proposes that fixed pack sizes should continue to be mandatory in a limited number of sectors in the interests of smaller-scale producers and consumer protection. This opinion agrees with this, subject to some minor changes in the range of sizes to be permitted.

Your draftsman also agrees with the Commission that there should be no changes included in this Directive for pre-packed products which are sold in aerosols, as this will be covered in the revision of Council Directive 75/324/EEC in the near future.

## **AMENDMENTS**

The Committee on Industry, Research and Energy calls on the Committee on the Internal

Market and Consumer Protection, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission<sup>1</sup>

Amendments by Parliament

Amendment 1  
RECITAL 5

(5) An impact assessment, including a wide consultation of all interested stakeholders, indicated that free nominal quantities increase the freedom of producers to provide goods according to consumer tastes and enhance competition as regards quality and price on the internal market.

(5) An impact assessment, including a wide consultation of all interested stakeholders, indicated that, ***in many sectors***, free nominal quantities increase the freedom of producers to provide goods according to consumer tastes and enhance competition as regards quality and price on the internal market.

*Justification*

*Free nominal quantities can encourage industry innovation and increase consumer choice, but not in all sectors*

Amendment 2  
RECITAL 7

(7) However, in ***certain*** sectors such deregulation could result in disproportionately heavy extra costs, especially for small and medium sized enterprises. For those sectors, therefore, existing Community legislation should be adapted in the light of experience, in particular to ensure that Community nominal quantities are fixed ***at least in the case of those products most sold to consumers***.

(7) However, in ***other sectors, free sizes previously gave rise to serious pack size proliferation and market complications. In those*** sectors such deregulation could result in disproportionately heavy extra costs, especially for small and medium sized enterprises, ***as well as consumer confusion. Furthermore, benefits from the use of environmentally-friendly lightweight glass could be jeopardised by deregulation.*** For those sectors, therefore, existing Community legislation should be adapted in the light of experience, in particular to ensure that Community nominal quantities are fixed ***for the most commonly traded sizes***.

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<sup>1</sup> Not yet published in OJ.

### *Justification*

*In some sectors, prior to the introduction of mandatory sizes, numerous different sizes were on sale, often clustered around the most commonly traded quantities, which resulted in widespread consumer confusion and extra costs to small producers in particular. An end to mandatory sizes in these sectors might recreate the conditions in which these difficulties could return causing problems for both producers and consumers.*

### Amendment 3 RECITAL 8

(8) ***Since*** the maintenance of mandatory nominal quantities ***should be regarded as a derogation, it should be limited in time, taking into account the appropriate investment cycle for the equipment in the respective sectors. For these sectors, however, existing Community legislation must be adapted in the light of experience, in particular to limit the fixed Community nominal quantities only to those most sold to consumers.***

(8) ***While*** the maintenance of mandatory nominal quantities ***can be justified for some sectors, in the light of experience and on the basis of the need for consumer protection, Community legislation should nonetheless be subject to review, in an effort to determine whether these mandatory sizes continue to reflect the needs of consumers and producers. To ensure the stability and predictability of the market, and in order not to jeopardise capital investments in packaging equipment, such reviews should be conducted only every ten years.***

### *Justification*

*The maintenance of mandatory sizes in some sectors would benefit both industry and consumers alike. It is difficult to predict future market conditions and whether an end to all mandatory sizes would be beneficial. It would be better, therefore, to conduct a review after a reasonably long length of time to assess if any adjustments to the legislation are necessary.*

### Amendment 4 RECITAL 9 A (new)

***(9a) In the interests of consumer protection, new measures should be introduced in order to improve the legibility of the weight and composition information which appears on product labels.***

### *Justification*

*This would provide more effective protection for consumers, who would have access to all the*

*information concerning the product in a legible form on the label and would be able to make swift comparisons between products in different-sized packs.*

Amendment 5  
RECITAL 10 A (new)

***(10a) In the case of products which are liquid in consistency but high in density (i.e. products which the packager may package as liquids or solids and which may therefore be measured in units of capacity or in units of weight and whose packaging may indicate either type of unit), harmonisation should be proposed in respect of the units of measure in which the content of such products is to be expressed, in order to enable consumers to compare prices of one and the same product.***

*Justification*

*There are certain products such as lacquers, varnishes, paints and ice creams which may be measured either in units of capacity or in units of weight. This prevents consumers from comparing the prices of one and the same product and may lead them to make the wrong choice. For this reason and in order to increase consumer protection, units of measure should be harmonised.*

Amendment 6  
ARTICLE 1, PARAGRAPH 1

This Directive lays down rules on the nominal quantities for products put up in pre-packages. It shall apply to pre-packed products and pre-packages, as defined in Article 2 of Directive 76/211/EEC.

This Directive lays down rules on the nominal quantities for products put up in pre-packages. It shall apply to pre-packed products and pre-packages, as defined in Article 2 of Directive 76/211/EEC. ***This Directive shall not apply to products listed in the Annex that are sold in duty-free shops for consumption outwith the European Union.***

*Justification*

*Goods on sale in outlets such as airport "tax free" shops and for export outwith the European Union are currently not subject to the EU's mandatory ranges since they are consumed outwith the Single Market. This provision should be retained so that sizes currently sold in such outlets do not become illegal.*

Amendment 7  
ARTICLE 3, PARAGRAPH 1

*Until [20 years after the date mentioned in Article 9],* Member States shall ensure that the products specified in point 3 of the Annex and put up in pre-packages in the intervals listed in point 1 and 2 of the Annex are placed on the market only if they are pre-packed in the nominal quantities listed in point 1 and 2 of the Annex.

Member States shall ensure that the products specified in point 3 of the Annex and put up in pre-packages in the intervals listed in point 1 and 2 of the Annex are placed on the market only if they are pre-packed in the nominal quantities listed in point 1 and 2 of the Annex. ***The list of products in point 3 of the Annex shall be reviewed every ten years with a view to assessing whether it should be retained and/or amended.***

*Justification*

*It is difficult to predict market conditions in the future and whether an end to all mandatory sizes would be beneficial. It would be better, therefore, to conduct a review after a reasonably long length of time to assess if any adjustments to the legislation are necessary.*

Amendment 8  
ARTICLE 5, PARAGRAPH 1

1. For the purposes of Articles 3 and 4, where two or more individual pre-packages ***make up*** a multi-pack, the nominal quantities listed in the Annex shall apply to each individual pre-package.

1. For the purposes of Articles 3 and 4, where two or more individual pre-packages ***which are packaged in the quantities specified in the Annex and are capable of being sold separately, are sold in*** a multi-pack, the nominal quantities listed in the Annex shall apply to each individual pre-package ***within the multi-pack.***

*Justification*

*A clarification. Products sold in multi-packs must either individually be in pack sizes allowed by this Directive or make in total a pack size which is allowed by this Directive.*

Amendment 9  
ARTICLE 5, PARAGRAPH 2

2. Where a ***pre-package is made up of two or more individual packages which are not intended to*** be sold individually, the nominal

2. Where a ***multi-pack contains two or more individual pre-packages which are not packaged in the quantities specified in the***

quantities listed in the Annex shall apply to the *pre-package*.

***Annex and consequently cannot*** be sold individually, the nominal quantities listed in the Annex shall apply to the ***total contents of the multi-pack***.

*Justification*

*A clarification. Products sold in multi-packs must either individually be in pack sizes allowed by this Directive or make in total a pack size which is allowed by this Directive.*

Amendment 10  
ARTICLE 8 A (new)

***Article 8a***

***Review***

***In the tenth year following the entry into force of this Directive, the Commission shall report to the Parliament and Council on the application of this Directive and, where necessary, make recommendations for its amendment.***

*Justification*

*The Commission should conduct a review after a reasonably long length of time to assess if any adjustments to the legislation are necessary.*

Amendment 11  
ARTICLE 8 B (new)

***Article 8b***

***Derogation***

***Products packaged in quantities that were mandatory immediately prior to the entry into force of this Directive but do not appear in the intervals specified in the Annex, and whose date of production was not later than the date of entry into force of this Directive, may continue to be placed on the market for 18 months following the entry into force of this Directive.***



### *Justification*

*Some sizes which are currently permitted will no longer be able to be sold under the terms of this Directive. It is appropriate, therefore, to have a phasing-out period.*

### Amendment 12

Annex, table 1, row 6, column 2

On the interval 100ml – **1500ml** only the following **7** sizes:

MI: 100 — 200 — 350 — 500 — 700 — 1000 — 1500

On the interval 100ml – **2000ml** only the following **10** sizes:

MI: 100 — 200 — 350 — 500 — 700 — **750** – 1000 — 1500 – **1750** – **2000**

### *Justification*

There has been an increased preference for larger sizes in spirit drinks. It is therefore appropriate to extend the mandatory sizes to include larger sizes to avoid the proliferation of similar bottle sizes at these levels. Producers should also be allowed to sell spirits in 750ml bottles since these are already produced for the export market and this is also the normal size for wine bottles.

Amendment 13

ANNEX, TABLE 2, ROW 2 A (new)

***brown sugar: on the interval 250 g - 1500 g, only the following 5 sizes:***

***g:250-500-750-1000-1500***

## PROCEDURE

<b>Title</b>	Proposal for a directive of the European Parliament and of the Council laying down rules on nominal quantities for pre-packed products, repealing Council Directives 75/106/EEC and 80/232/EEC, and amending Council Directive 76/211/EEC
<b>References</b>	COM(2004)0708 – C6-0160/2004 – 2004/0248(COD)
<b>Committee responsible</b>	IMCO
<b>Committee asked for its opinion</b> Date announced in plenary	ITRE 27.10.2004
<b>Enhanced cooperation</b>	
<b>Draftsman</b> Date appointed	John Purvis 27.1.2005
<b>Discussed in committee</b>	31.3.2005
<b>Date amendments adopted</b>	26.4.2005
<b>Result of final vote</b>	for: 37 against: 2 abstentions: 0
<b>Members present for the final vote</b>	Ivo Belet, Jan Březina, Philippe Busquin, Jerzy Buzek, Joan Calabuig Rull, Pilar del Castillo Vera, Jorgo Chatzimarkakis, Giles Chichester, Lena Ek, Nicole Fontaine, Umberto Guidoni, András Gyürk, Fiona Hall, David Hammerstein Mintz, Rebecca Harms, Romana Jordan Cizelj, Werner Langen, Anne Laperrouze, Pia Elda Locatelli, Eluned Morgan, Reino Paasilinna, Pier Antonio Panzeri, Umberto Pirilli, Miloslav Ransdorf, Vladimír Remek, Teresa Riera Madurell, Paul Rübig, Andres Tarand, Britta Thomsen, Catherine Trautmann, Nikolaos Vakalis, Alejo Vidal-Quadras Roca
<b>Substitutes present for the final vote</b>	Malcolm Harbour, Erna Hennicot-Schoepges, Edit Herczog, Erika Mann, Lambert van Nistelrooij, John Purvis, Hannes Swoboda
<b>Substitutes under Rule 178(2) present for the final vote</b>	